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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/041,832	10/19/2001	Robert Dale Haun	DEE6270P0130US	4546
41528	7590	11/15/2004	EXAMINER	
THE LAW OFFICE OF RANDALL T. ERICKSON, P.C. 425 WEST WESLEY STREET, SUITE 1 WHEATON, IL 60187			BOTTORFF, CHRISTOPHER	
			ART UNIT	PAPER NUMBER
			3618	

DATE MAILED: 11/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/041,832	HAUN, ROBERT DALE
	Examiner	Art Unit
	Christopher Bottorff	3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 03 September 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-3,5-7 and 9-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1-3,5,6 and 11-15 is/are allowed.
- 6) Claim(s) 7,9 and 10 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All
  - b) Some \*
  - c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## DETAILED ACTION

The amendment filed September 3, 2004 has been entered. Claims 4 and 8 are canceled. Claims 1-3, 5-7, and 9-15 are pending.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kurtz, Jr. et al. US 5,535,846 in view of Schroeder et al. US 5,964,490, Esau et al. US 5,339,494, and Smith US 6,374,936.

Kurtz, Jr. et al. discloses a hinge assembly comprising a hood-mounted bracket 31 comprising one link of the hinge assembly, which is formed by the portion of bracket 31 extending along side panel 28 of polymeric hood 20. The hood-mounted bracket 31 is mounted to an underside of the tractor hood 20, near a back end of the tractor hood 20. The hood-mounted bracket 31 comprises a metal base portion extending across the width of the hood 20 at top portion 27, with the one link fixed at one end of the base portion. The metal base portion of the bracket 31 is secured adhesively to the underside of the hood 20. See Figures 3 and 7-9; column 5, lines 63-67; and column 6, lines 1-22.

Kurtz, Jr. et al. does not disclose that the metal of the bracket is steel, that the hinge assembly comprises a double-rocker, four-link mechanism, and that the tractor is equipped with a loader bucket.

However, Schroeder et al. teaches that the practice of forming a metal vehicle member, which is adhesively secured to a polymeric vehicle member, of steel was old and well known in the art at the time the invention was made. See column 2, lines 18-22, and column 1, lines 32-40. From the teachings of Schroeder et al., forming the bracket of Kurtz, Jr. et al. of steel would have been obvious to one of ordinary skill in the art at the time the invention was made. This would provide the bracket with sufficient strength.

Esau et al. teaches that the practice of providing a tractor hood and hinge bracket combination with a double-rocker, four-link hinge mechanism (16, 18, 23, and the link supporting links 16 and 18 at pins 24 and 26) was old and well known in the art at the time the invention was made. See Figures 3 and 4. From the teachings of Esau et al. providing the hood and hinge bracket combination of Kurtz, Jr. et al. with a double-rocker, four-link hinge mechanism would have been obvious to one of ordinary skill in the art at the time the invention was made. This would allow the hood to open and close efficiently and effectively.

Smith teaches that the practice of equipping a tractor with a loader bucket 30 was old and well known in the art at the time the invention was made. See Figure 1. From the teachings of Smith, equipping the tractor of Esau et al. with a loader bucket

would have been obvious to one of ordinary skill in the art at the time the invention was made. This would assist the tractor in moving earth or carrying heavy loads.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kurtz, Jr. et al. US 5,535,846 in view of Smith US 6,374,936, Schroeder et al. US 5,964,490, and Fleming US 5,067,759.

Kurtz, Jr. et al. discloses a tractor that includes a combination of a polymeric hood 20 and a metal hinge bracket 31 that is secured adhesively to the hood. Metal hinge bracket 31 comprises a metal plate extending across a width of hood 20 and formed by the portion of bracket 31 extending along the top portion 27 of hood 20. Also, one link is formed by the portion of bracket 31 extending along side panel 28 of hood 20. See Figures 3 and 7-9; column 5, lines 63-67; and column 6, lines 1-22.

Kurtz, Jr. et al. does not disclose that the tractor is equipped with a loader bucket, that the metal of the bracket is steel, and that the polymeric material of the hood is a vacuum-formed polypropylene material.

However, Smith teaches that the practice of equipping a tractor with a loader bucket 30 was old and well known in the art at the time the invention was made. See Figure 1. From the teachings of Smith, equipping the tractor of Esau et al. with a loader bucket would have been obvious to one of ordinary skill in the art at the time the invention was made. This would assist the tractor in moving earth or carrying heavy loads.

Schroeder et al. teaches that the practice of forming a metal vehicle member, which is adhesively secured to a polymeric vehicle member, of steel was old and well known in the art at the time the invention was made. See column 2, lines 18-22, and column 1, lines 32-40. From the teachings of Schroeder et al., forming the bracket of Kurtz, Jr. et al. of steel would have been obvious to one of ordinary skill in the art at the time the invention was made. This would provide the bracket with sufficient strength.

Also, Fleming teaches that providing polymeric vehicle parts as polypropylene and forming polypropylene vehicle parts through a vacuum forming process was old and well known in the art at the time the invention was made. See column 2, lines 43-45. From the teachings of Fleming, making the polymeric hood of Kurtz, Jr. et al. of polypropylene would have been obvious to one of ordinary skill in the art at the time the invention was made in order to minimize the weight and cost of the hood. From the further teachings of Fleming, using a vacuum forming process to form the hood of Kurtz, Jr. et al. of polypropylene would have been obvious to one of ordinary skill in the art at the time the invention was made in order to utilize a process familiar to manufacturing personnel. Moreover, in regard to the vacuum-forming process, the determination of patentability is based upon the product and not the process. *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985).

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kurtz, Jr. et al. US 5,535,846 in view of Smith US 6,374,936, Schroeder et al. US 5,964,490,

and Fleming US 5,067,759 as applied to claim 9 above, and further in view of Esau et al. US 5,339,494.

Kurtz, Jr. et al., as modified by Smith, Schroeder, and Fleming, does not disclose that the combination comprises a double-rocker, four link hinge mechanism. However, Esau et al. teaches that the practice of providing a tractor hood and hinge bracket combination with a double-rocker, four-link hinge mechanism (16, 18, 23, and the link supporting links 16 and 18 at pins 24 and 26) was old and well known in the art at the time the invention was made. See Figures 3 and 4. From the teachings of Esau et al. providing the hood and hinge bracket combination of Kurtz, Jr. et al, as modified by Smith, Schroeder, and Fleming, with a double-rocker, four link hinge mechanism would have been obvious to one of ordinary skill in the art at the time the invention was made. This would allow the hood to open and close efficiently and effectively.

#### ***Allowable Subject Matter***

Claims 1-3, 5, 6, and 11-15 are allowed.

#### ***Response to Arguments***

Applicant's arguments filed September 3, 2004 have been fully considered but they are not persuasive.

Applicant asserts that Kurtz, Jr. et al. teaches away from the present invention. However, the suggested use of fiberglass, liquid composite molding, aluminum, and heat curing is only offered as an example of the disclosed invention. The terms

“preferably” and “such as” in column 5, lines 63-67, and column 6, lines 1-22, indicate that the invention is not limited to these specific materials and processes. Rather, Kurtz, Jr. et al. offers a broader teaching of attaching a polymer hood to a metal hinge bracket with adhesive. This broad teaching does not teach away from the present invention or the claimed invention.

In response to applicant's argument that Schroeder et al. fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the absence of bolts) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Also, Kurtz, Jr. et al. do not suggest that bolts cannot be used with their hood and bracket system. Thus, the presence of bolts in the system of Schroeder et al. is not relevant to the present claims or to the combination cited in the rejections above.

As outlined in the rejections above, the rejected claims do not distinguish over the prior art.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Bottorff whose telephone number is (703) 308-2183. The examiner can normally be reached on Mon.-Fri. 7:30 a.m. - 4:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (703) 305-0168. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
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